

PAUL S. HUDSON (pro hoc vice)
LAW OFFICES OF PAUL S. HUDSON P.C.
globetrotter1947@hotmail.com
4411 Bee Ridge Road #274.
Sarasota, Florida 34233
Telephone: 410-940-8934
Facsimile: 240-391-1923

DAVID G. RAMOS (Bar No. 116456)
LAW OFFICES OF DAVID G. RAMOS
barram@i-cafe.net
3266 Villa Lane
Napa, California 94558
Telephone: 707-255-1700
Facsimile: 707-255-3660

Attorneys for Plaintiff KATHLEEN HANNI.
Individually and on behalf of all others similarly situated

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

KATHLEEN HANNI, individually and on) behalf of all others similarly situated,) TIMOTHY T. HANNI, CHASE L.) COSTELLO, and LANDEN T. HANNI, a) minor, by and through his parent and) Natural Guardian, Kathleen Hanni,) Plaintiff,) v.) AMERICAN AIRLINES, INC.; and DOES 1) through 20, inclusive,) Defendants.)	No. C08-00732 CW THIRD AMENDED CLASS ACTION COMPLAINT
--	---

Plaintiff Kathleen Hanni, Timothy T. Hanni (husband of Kathleen Hanni), Chase L. Costello (son of Kathleen Hanni), and Landen T. Hanni (son of Kathleen Hanni), a minor, by and through his parent and Natural Guardian, Kathleen Hanni, on behalf of herself and all others similarly situated, by and through her attorneys, Paul S. Hudson, Esq. (pro hac vice) and David G. Ramos, Esq., state and allege as and for a Third Amended Class Action Complaint as follows:

Parties and Jurisdiction

1. Plaintiffs are citizens and residents of Napa, Napa County, California.

2. Defendant American Airlines, Inc. (hereinafter AA) is a corporation organized under the laws of Delaware with its headquarters in Fort Worth, Texas. At all relevant times hereto, AA was doing substantial business in the State of California.

3. The monetary damages at issue in this case are within the jurisdictional requirements of this court.

Class Action Allegations

4. This cause of action is being maintained as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure. In that regard, the Plaintiff alleges the following:

- a. The proposed class consists of 3,000 to 12,000 airline passengers confined on aircraft by Defendants for 3 to 11 hours on December 29th, 2006, and who were otherwise affected by related actions of the Defendant as set forth below; accordingly the class is so numerous that joinder of members is impracticable;
- b. There are common issues of law and fact common to the class;
- c. Many of the claims of Kathleen Hanni are typical of the claims of the class members;
- d. Kathleen Hanni has agreed to serve as class representative and has agreed to fairly and adequately protect the interests of the class.

5. In support of the class action allegations, Plaintiff incorporates by reference the statements and allegations that follow.

Events of December 29th, 2006

6. Plaintiff, her husband Timothy Hanni and her two children purchased tickets for air transportation on AA flight 1348 scheduled to depart from San Francisco, California on December 29th, 2006, at 6:20 AM (Pacific Time) to Dallas (DFW), Texas, connecting to AA flight 3821 scheduled to depart DFW at 1:20 PM (Central Time) to arrive in Mobile, Alabama at 2:55 PM (Central Time), for a total expected travel time of 7 hours

1 from departure airport to destination airport. However, the trip actually took 57 hours due to
2 Defendant's misconduct detailed below.

3 7. Plaintiff boarded the AA aircraft with her family members at 6:20 AM
4 (Pacific Time) which departed from San Francisco at about 7:00 AM after a delay due to
5 mechanical problems.

6 8. En route the AA pilot announced the aircraft was being diverted to Austin,
7 Texas due to weather "but only for a brief time, to allow fingers of weather to move through"
8 and that "we will be landing in Austin to wait for clearance at DFW so we can be on our
9 way."

10 9. At noon Central Time AA Flight 1348, a filled to capacity MD80, landed in
11 Austin with Plaintiff and approximately 140 other passengers and flight crew, taxied to an
12 area away from the terminal that upon information and belief was an AA maintenance ramp.

13 10. Plaintiff could see that gates were empty at the terminal, but the AA pilot
14 reassured the passengers that they would only be 10 to 15 minutes and they would be on
15 their way.

16 11. AA captain Jesse Fodero announced every 15 minutes for 2 ½ hours that it
17 will be just a few more minutes, but at 1:00 pm another AA airliner Flight 1008 pulled up
18 beside, then another and another AA flights 2412 and 534.

19 12. At 2:30 PM (Central Time), AA captain Fodero announced that he had
20 asked for buses to bring food and potable water to the aircraft and to allow passengers with
21 destinations near Austin, and anyone else who wanted to, to go to the terminal. Captain
22 Fodero stated that he still expected to take off but had not gotten clearance yet, and he will
23 update passengers again in 30 minutes.

24 13. A bus arrived at about 2:45 PM, but Captain Fodero ordered that only
25 elderly, passengers with children and disabled would be allowed to deplane. At this point
26 many passengers stampeded to the back of the aircraft to exit, but all passengers who did not
27 have Austin as a final destination were stopped and forced to remain in the aircraft against
28 their will.

1 14. Captain Fodero also stated that he was very sure that they would take off
2 shortly and that anyone who exits the aircraft will not be able to get another flight and would
3 not receive their baggage.

4 15. At 3:00 PM (Central Time) Captain Fodero stated that he has received
5 clearance to take off and land at DFW, but that although the sky is clear and sunny he states
6 he is concerned about lightning and will not take off yet, but will soon.

7 16. Plaintiff observed as of 3:00 PM there were 13 other AA aircraft lined up
8 and parked in the same maintenance area as her flight.

9 17. At 3:30 PM (Central Time) AA Captain Fodero announced that "this bird is
10 not going to fly" and then reveals that buses he requested are not coming and that an AA
11 manager, who upon information and belief is named Al Tinsley (aka Doe #1), is refusing to
12 permit AA aircraft to go to a gate to allow passengers to exit the aircraft.

13 18. Plaintiff and other passengers express their desire to exit the aircraft but
14 Captain Fodero refused, claiming to be powerless due to AA management.

15 19. Passengers start calling for help on their cell phones even though the flight
16 crew has instructed them not to, and some passengers began talking about popping the
17 emergency exits and running for the terminal, which terrified Plaintiff and other passengers.

18 20. At about 5:00 PM, Captain Fodoro opened the cockpit door and allowed
19 some passengers to hear his communications with AA management and other parked
20 aircraft. Plaintiff overheard one captain on another parked aircraft state that Hazmat had
21 been called because a dog with diarrhea had defecated on some passengers and other
22 passengers were getting sick from the smell. Plaintiff also overheard that all parked aircraft
23 were being told by AA management that they could not come to the terminal.

24 21. At about 6:00 PM toilets were backed up on the plane. Flight attendants
25 served a half Dixie cup of water, which upon information and belief, was non-potable water
26 from the lavatory sinks and made some passengers sick, and a small bag of pretzels with
27 about 45 calories.
28

1 22. One passenger told Plaintiff he had missed a funeral and others were
2 expressing their anger and frustration and anxiety at being imprisoned on the aircraft without
3 any justification.

4 23. At about 7:00 PM, Captain Fodero announced that he was embarrassed
5 that AA had not emptied the toilets or serviced the aircraft and AA management would not
6 allow the aircraft to have any available gate to return to the terminal and that he did not
7 know what to say anymore.

8 24. Plaintiff observed that AA gates 24 and 25 were empty and available as
9 well as gates of other airlines, but Captain Fodero continued to insist that they could not go
10 to them as did other flight crew members without explanation.

11 25. Plaintiff observed that another parked aircraft flight 534 had its cabin
12 lights out and someone was flashing SOS and that a group of male passengers who the
13 Plaintiff later learned were US Marines were being arrested on the tarmac, after, upon
14 information and belief, they had gotten into a fight in order to get off their aircraft.

15 26. At about 8:00 PM passengers on Plaintiff's flight were speaking out loudly
16 and angrily and the flight attendants ceased circulating through the cabin to ask people to
17 remain calm, but huddled frightened at the front of the aircraft.

18 27. Captain Fodero continued to repeat that buses and food were coming but
19 nothing came. He claimed he was talking to the airport managers to get passengers to the
20 terminal, but nothing happened.

21 28. Plaintiff needed to go to the bathroom and went to the first class lavatory
22 as the coach class bathrooms were inoperable, but was told by Captain Fodero who was just
23 exiting the first class lavatory not to enter or enter at her own risk. Plaintiff had to use a
24 disgusting lavatory which was not operable, with the toilet bowl filled with excrement and
25 vomit.

26 29. Plaintiff who had recently been victim of an violent assault and was being
27 treated for post traumatic shock syndrome, then suffered a mild panic attack and a tightening
28 in her chest and informed Captain Fodero. Captain Fodero stated that even if she had a

1 heart attack that they would not allow passengers to leave the aircraft, they would just take
2 her off the plane as they were doing with a paraplegic diabetic who was suffering from an
3 attack on another parked aircraft.

4 30. Plaintiff observed a pregnant woman with a baby making a diaper out of
5 tee shirt and many other acts of naked survival and physical and emotional distress on the
6 aircraft caused by inhuman conditions being inflicted on her and others similarly situated.

7 31. As plaintiff was exiting the first class lavatory she overheard Captain
8 Fodero saying that he could not understand why AA would not send anyone to empty the
9 toilets and then he told Plaintiff that the only way that passengers could return to the
10 terminal without AA management permission was if he declared an on board emergency.

11 32. At about 9:04 PM Captain Fodero declared, upon information and belief,
12 after his and other pilots' maximum flight time on duty had expired, an on board emergency
13 and stated that he might lose his job for doing so.

14 33. Plaintiff's aircraft then proceeded through a series of hair raising turns on
15 active and inactive runways to the terminal where passengers were deplaned at 9:30 PM,
16 after 9.5 hours confined on the tarmac in Austin, and over 16 hours without food.

17 34. In one last announcement, Captain Fodero stated "Please go to baggage
18 claim 3, I promise we will get your bags off this plane quickly and efficiently so you may be
19 on your way. There will be someone from American to help you when you get off the
20 plane." However, there was no one to help, all food service places were closed, and after
21 waiting at the baggage claim area for another 2.5 hours until midnight, the Plaintiff's and
22 other passengers baggage and others was not unloaded, .

23 35. Rather, AA personnel informed Plaintiff and other passengers that their
24 bags would not be returned, would not be unloaded from the plane and that the flight would
25 be "resumed" at 6:00 AM on December 30th, 2006.

26 36. Defendant provided no vouchers or money for food, lodging, or anything
27 else to most class members except a \$10 hotel discount coupon for passengers who waited
28 in a long line for several hours.

1 37. Plaintiff returned after 4 hours at a hotel to find 1,000 people from the
2 stranded flights all trying to get through ticketing and security at the Austin airport as
3 Defendant had issued no tickets or boarding passes to its stranded passengers.

4 38. Plaintiff was finally advised to get on another flight (flight 1008) by
5 Captain Fodero who stated that "this bird (flight 1348) is not going to fly."

6 39. Arriving at DFW 20 minutes before the only AA flight to Mobile, Plaintiff
7 was refused boarding even though she had a confirmed reservation by an AA gate agent who
8 also rudely informed her that her baggage was on the flight to Mobile, she and her family
9 would not be allowed to board as the flight was oversold, unless she was "the Queen of
10 England and you are obviously not the Queen of England." Plaintiff then became violently
11 sick to her stomach and nearly vomited.

12 40. Plaintiff then politely asked that her baggage be removed, but the AA pilot
13 refused and stated that due to the weight of too many bags he was involuntarily removing 14
14 passengers but would not remove any baggage.

15 41. Plaintiff then politely asked the gate agent and pilot for a hotel voucher,
16 who responded in unison, "Don't blame us for the weather" and summarily rejected her
17 request and neither paid or offered to pay any compensation for being denied boarding.

18 42. Plaintiff was then forced to spend another night in a hotel at her expense
19 and finally got on an AA flight on December 31st, 2006 to Mobile to retrieve her baggage
20 over 50 hours after departing from San Francisco, ruining her vacation, and her husband's
21 business trip.

22 43. Plaintiff was confined to the aircraft against her will on the ground in
23 Austin Texas for approximately 9.5 hours by Defendant, and was not permitted by AA to
24 exit the aircraft until 9:30 PM (Central Time), over 13 hours after boarding the aircraft.

25 44. While confined on the ground in Austin, the toilets became full and
26 would not flush and the stench of human excrement and body odor filled the plane.

27 45. Plaintiff and other passengers were deprived of adequate food and potable
28 water.

1 46. Plaintiff and other passengers were also deprived of access to
2 medications, nutritional supplements and needs, and hydration especially needed by infirm,
3 elderly and children and infants.

4 47. Plaintiff and other passengers were forced to witness the physical and
5 severe emotional distress and panic of other passengers causing all passengers to suffer
6 emotional distress and endangering the physical safety of Plaintiff and all passengers.

7 48. The distress of the confined passengers in overcrowded conditions in the
8 aircraft was witnessed by AA flight crew employees and was also reported to AA ground
9 personnel and to Austin airport authorities.

10 49. As many as 12,000 passengers involving as many as 124 flights on
11 December 29th, 2006 were confined to aircraft diverted from Dallas by Defendant to 17
12 other airports and confined for from 3 to 12 hours on the aircraft in poor to deplorable
13 conditions by Defendants.

14 50. Plaintiffs and other stranded passengers suffered hunger, thirst, anxiety,
15 physical illness, emotional distress and monetary losses as a result of Defendant's failure to
16 permit passengers to exit the aircraft to the airport terminals or to supply the parked aircraft
17 with essentials of water, food, sanitary waste removal, light, and breathable or fresh air at
18 normal temperatures.

19 51. Defendants knew or should have known that passengers needed to be
20 supplied with essential rescue and survival conditions on board the aircraft, but failed and
21 refused to do so.

22 52. Defendants had ample advanced warning of weather conditions at Dallas
23 and knew or should have known that it was not able to land aircraft at Dallas (DFW) airport
24 at the capacity it had scheduled on December 29th, 2006, due to transient thunder storms
25 and could have cancelled or delayed from departing many of the flights that it diverted and
26 stranded, thereby preventing the diversions and confinements.

1 53. With the exception of a few passengers whose destination was the Austin
2 Texas area, AA refused to permit passengers to exit the aircraft even though buses and
3 available gates at the terminal were available to AA.

4 54. After AA finally permitted Plaintiff and other passengers to exit the aircraft
5 at about 9:30 PM on December 29th, 2006, it "continued" the flight to the next morning and
6 refused to return checked baggage to the passengers.

7 55. AA then refused to provide payment for overnight lodging, meals, ground
8 transportation, telephone or other passenger expenses and losses caused by its diversion and
9 stranding.

10 56. The next morning after more delays Plaintiff and other passengers were
11 flown to Dallas (DWF) airport, where their baggage had been loaded onto the Mobile flight
12 that Plaintiff was involuntarily denied boarding.

13 57. Other class members who had been diverted, confined and stranded
14 overnight were then denied boarding on connecting flights, and were stranded for another
15 day in Dallas.

16 58. Intentionally omitted.

17 **Factual Allegations and Experiences of Others Similarly Situated in the Proposed Class**

18 59. The following is a small sample of the experiences of others similarly
19 situated who would be in the proposed class (those identified with initials would have their
20 names not divulged in public filings at this time, but their identities are available to the court
21 *in camera* and to the Defendant upon the filing of an appropriate protective order or
22 stipulation.):

23 a) Paul Ziots residing 8 miles south of San Francisco on Flight 1348 suffered
24 intestinal infection and distress from the water served and/or infection received on the
25 aircraft, that required a two day stay in Austin at his expense cost of over \$500 in out-of -
26 pocket expenses, causing cancellation of a vacation in Mexico, and when he tried to use an
27 AA trip voucher for another vacation to Florida, another lengthy delay required cancellation
28 of that trip also.

1 b) TD of Los Altos Hills, California on Flight 1348 on a trip to Belize on AA
2 from San Francisco had out-of-pocket expenses of over \$600, had to drive from Austin to
3 Dallas at his expense, will confirm that no water or food was delivered to the aircraft and
4 passengers were forbidden to leave the aircraft after a small group of passengers with Austin
5 as destination were allowed to deplane early on, that the toilets became disgusting and filthy
6 and were not serviced, open gates were obviously available in plain sight while the AA
7 captain continued to say none were available.

8 c) Mark Vail of Mardera, California on Flight 534 from Fresno to Dallas was
9 suffering from claustrophobia and is required to take medication daily for epilepsy. i) His
10 flight was diverted to Austin and he and his fellow passenger were confined against their will
11 for over 7 hours on the ground, plus 3 hours in the air. ii) He was deprived of medication
12 which was in his baggage that AA refused to return on December 29th, so he had to rent a
13 car in Austin at his expense to drive to Dallas and retrieve his baggage the next morning at
14 DFW after 1-2 hours of AA personnel misinforming him that his baggage had been sent back
15 to Fresno. iii) Mr. Vail was immersed the hellish conditions and distress of other passengers,
16 including a woman who had a diabetic attack next to him, who began shaking
17 uncontrollably while begging the flight attendant for food, and whose medications were also
18 in her checked baggage. The flight attendant only gave her a stale bagel and spoiled milk.
19 iv) Babies ran out of formula and began crying and screaming along with their mothers
20 begging to be let off the aircraft. v) Another elderly man who had a colostomy bag went into
21 diabetic shock and was removed from the plane by an EMS team. vi) EMS refused to
22 evacuate other passengers who were yelling "We're being held hostage!" vii) Mr. Vail began
23 flashing SOS out the window and finally at 9:00 pm the aircraft went to one of the many
24 open gates. viii) Mr. Vail received no ticket refund or reimbursement for his auto rental
25 expense, but did receive a \$500 voucher for future air travel.

26 d) Flight 1682 from Oklahoma City to DFW left the gate at 2:07 pm, then
27 waited over 8 hours before AA canceled the flight and returned to the terminal, upon
28

1 information and belief based upon a the Wall Street Journal article of January 6, 2007 by
2 Scott McCartney and Flight Stats Inc.

3 e) Flight 37 from Zurich, Switzerland to DFW was diverted to Tulsa,
4 Oklahoma where passengers were confined for 10 hours and did not reach Dallas until 1:33
5 AM on December 30th after passengers had been on board for 22 hours. The pilots refused
6 to take off because they had reached their federal limits of duty time and AA did not supply a
7 replacement crew for many hours. This allegation is on information and belief based on the
8 Wall Street Journal article cited above.

9 f) William King of Bowling Green, Kentucky, his wife and two children ages 5
10 and 7, on Flight 9133 were returning home to the Nashville airport through Dallas and was
11 diverted to Austin where after many hours of confinement, he was told that he could not get
12 off and, if he did, his family tickets would be forfeited and no ticket refund would be granted
13 or assistance provided to reach his destination. i) The next day, after receiving no hotel or
14 food or transportation assistance in Austin where he was stranded, Mr. King was forced to
15 rent a car at his expense and drive 13 hours to his home town, because AA stated it could
16 not get him to Nashville. The total delay was two days.

17 g) JH residing near Fresno, California was on Flight 4384, which was diverted
18 to New Orleans after circling Dallas airport until fuel was low, where he was confined for 8
19 hours where he had no food or functioning toilets, lost 2 days of work and \$700 in out of
20 pocket expenses, no food or functioning toilets. i) He received \$500 voucher for future
21 travel.

22 **Pattern and Practice of AA Misconduct**

23 60. Upon information and belief, Defendant AA has a pattern of involuntarily
24 confining passengers on aircraft without survival necessities for lengthy periods of time on
25 the ground for its own pecuniary gain, and such incidents include the following:

26 a) April 24, 2007, 92 flights were diverted, on at least 13 of the flights,
27 passengers were confined over 4 hours.
28

1 b) August 9th, 2007, 12 aircraft at LAX in Los Angeles, passengers confined
2 over 12 hours with some passing out on the aircraft.

3 c) May 8, 2007, passengers held over 8 hours on aircraft at Palm Beach.

4 d) On or about February 8th, 2002, Flight 2011 at DFW, passengers held on
5 aircraft over 7 hours.

6 e) On or about May 19th, 2000, thousands of passengers held in aircraft at
7 DFW up to 7 hours.

8 f) On or about July 2, 1999, at O'Hare Airport, 91 passengers were held up to
9 6 hours.

10 61. Defendant AA has not provided reimbursement for passenger expenses,
11 ticket refunds and other forms of compensation to passengers that it diverted and confined
12 on December 29th and 30th, 2006, but only a restricted voucher for \$100 to \$500 future
13 travel and sometimes a letter of apology.

14 62. Defendant did not advise stranded passengers that they could use their AA
15 tickets on another airline for travel to their destinations on December 29th or subsequent
16 thereto, even though an industry convention and rule provides for such when a flight is
17 cancelled or excessively delayed.

18 63. Defendant did not provide ticket refunds or other compensation to
19 passengers that it stranded on December 29th and 30th, 2006.

20 64. Defendant knowingly misrepresented the reasons for the delays and
21 confinements by falsely asserting to passengers and the public that aircraft were not able to
22 take off due to weather.

23 65. The delays on December 29th, 2006 were actually due to causes within
24 the control of AA, including insufficient personnel, lack of equipment, poor maintenance
25 and lack of planning for ordinary weather disruptions by AA.

26 66. Confinements by AA, upon information and belief, were to avoid
27 expenses and lawful obligations to passengers associated with strandings, diversions and
28

1 canceled flights and for AA's and its officers', employees', agents' and stockholders' own
2 pecuniary gain at the expense of Plaintiff and other passengers.

3 67. While Plaintiff and other passengers were confined to their aircraft in
4 Austin and other diverted airports, other flights of Defendant and other airlines' aircraft were
5 taking off and landing without significant delays.

6 68. Upon information and belief, the Dallas (DFW) airport was only closed to
7 air traffic for approximately 2.5 hours from 2:00 PM to 4:30 PM on December 29th, 2006,
8 and brief closure did not cause the delay of approximately 50 hours of plaintiff to her
9 destination or that of others similarly situated but was instead caused by matters within the
10 control of AA.

11 69. Upon information and belief, AA has a corporate policy, practice and
12 pattern of confining and imprisoning passengers on aircraft of excessively delayed or
13 cancelled flights for excessive periods of time to prevent "passenger migration" and this
14 unlawful practice was used against Plaintiff and other similarly situated passengers by
15 Defendant's employees and agents on December 29th, 2006. The basis for this belief
16 includes the miscoding of many flights as "continued" or "resumed" rather than cancelled
17 and AA employee informants' assertions.

18 70. Upon information and belief, AA has inflicted its practices of confining
19 and imprisoning passengers for over 3 hours to prevent "passenger migration" on over ten
20 thousand other passengers since December 29th, 2006, including another mass stranding on
21 April 2007.

22 71. By unlawfully confining Plaintiff and other passengers diverted from
23 Dallas on December 29th, 2006 in inhumane conditions, AA recklessly endangered the
24 safety of plaintiff and other passengers. AA also avoided ticket refunds, overnight lodging
25 and meal expenses for passengers, alternate transportation expenses on other airlines that
26 under an industry convention and practice will honor tickets of a defaulting airline and back
27 charge the defaulting airline, ground transportation expenses, terminal employee overtime
28

1 and staffing expenses, and other expenses normally associated with mass strandings and
2 cancellations.

3 72. Defendant could have permitted passengers to exit the aircraft after the
4 diversions on December 29th, 2006, but failed and refused to do so for its own pecuniary
5 gain.

6 73. Upon information and belief, some passengers after the confinements
7 ended were forced by Defendant to fly to destinations that they not longer wished to travel
8 to because the reason for their trip such as a missed meeting or family event, no longer
9 existed, but were forced to do so by Defendant who did not permit them to exit the aircraft
10 and obtain alternate transportation to another destination or return home.

11 74. Other passengers were forced under duress not to abandon their travel
12 with AA on December 29th and 30th, 2006 because AA refused to return their checked
13 baggage, even after promising to do so, after finally permitting passengers to exit the aircraft
14 the evening of December 29th, 2006.

15 **ACTIONS AFFECTING CLASS MEMBERS GENERALLY**

16 75. Passengers on the Defendant's diverted flights had their travel delayed up
17 to 3 days after December 29th, 2006 due to non-weather conditions that were within the
18 control of Defendant AA without compensation for passenger expenses and losses.

19 76. Defendant was not prevented or prohibited from permitting passengers to
20 exit or re-supply and service the aircraft in Austin or other diverted airports by the Federal
21 Aviation Administration air or by airport management, or other government authorities, by
22 weather, by safety, or by security considerations.

23 77. Upon information and belief, the water served by AA to Plaintiff and other
24 passengers on her flight was untreated, non-potable water taken from the bathroom sinks and
25 that such water was known by AA to be non-potable in that such water on AA aircraft had
26 recently failed testing and was known by AA to be unfit for drinking, and likely
27 contaminated with bacteria from sanitary waste that could sicken and endanger passengers'
28 health if drunk.

1 78. Defendants' continued detention of Plaintiff and other passengers similarly
2 situated for over 3 hours was done for the commercial convenience of Defendants.

3 79. Defendants' continued detention of Plaintiff and other passengers for over
4 3 hours without potable water, working toilets, breathable air, or adequate food or access to
5 passenger medications recklessly endangered the safety of Plaintiff and others similarly
6 situated.

7 80. Gates and/or buses were available to Defendant AA to safely permit
8 passengers to exit the aircraft in Austin and other airports to which AA diverted aircraft, but
9 Defendant AA and/or its agents and employees refused permission to flight crews to return to
10 available terminal gates and/or failed or refused to permit buses to deplane passengers
11 except for a few passengers whose destination was Austin or other airports that AA's aircraft
12 were diverted to on December 29th, 2006.

13 81. Proper maintenance of aircraft, customer service and operations staffing
14 are matters within the control of Defendant AA.

15 82. Intentionally omitted.

16 83. After passengers were finally returned to the terminal in Austin with over
17 300 passengers in need of assistance. AA Manager Al Tinsley, upon information and belief,
18 ordered that the only duty AA Customer Service personnel close the Customer Service
19 Station and go home.

20 84. AA made an intentional management decision not to delay its non-
21 diverted flights and to confine and hold its diverted flights and confine its passengers on
22 diverted flights to maximize its revenue and minimize its expenses associated with diverted
23 flights by falsely blaming the confinements and delays on the weather (aka Force Majeure or
24 Acts of God).

25 85. AA management made an intentional decision to close its headquarters at
26 Fort Worth where most of its Customer Service personnel work for the holiday weekend on
27 December 29th, 2006 through January 1st, 2007.
28

86. AA management was scheduled to receive (and did receive) large bonuses based on financial results achieved for 2006 and would have received less or even no bonuses if it had compensated passengers as required under its obligations by contract for the diversion delays and called in necessary workers or paid overtime to operate its aircraft and service its diverted passengers, and not sought to falsely excuse its malfeasance and nonfeasance with a fraudulent Force Majeur claim.

FIRST CAUSE OF ACTION, NEGLIGENCE

87. Plaintiffs repeat and re-allege paragraphs 1 through 86 as if fully stated herein.

88. Defendant is a common carrier offering air transportation to the general public, and as such owed a high duty of care for the safety and protection of its passengers, including Plaintiffs and class members.

89. This duty also created a special relationship between AA and Plaintiff and required AA to affirmatively aid and protect Plaintiff and class members against unreasonable risk of physical harm.

90. This duty included a high standard of care so as to

a) not deprive Plaintiffs and other similarly situated passengers of their personal liberty by unjustified confinement in crowded conditions on the ground in an aircraft for a lengthy period of time without adequate water, food, restroom facilities, and breathable air at reasonable temperatures,

b) not violate criminal laws of the states regarding false imprisonment,

c) not cause plaintiffs and other passengers physical injury and emotional distress, and

d) not place passengers in danger or risk of physical harm.

91. This duty arises out of state common law, as summarized at Restatement of Torts Second Section 314A, out of the general federal standard of due care to provide "safe and adequate service" (49 U.S.C. 41702), under criminal statutes in Texas, California and other states where AA confined passengers defining the crime of false imprisonment

1 and/or reckless endangerment, and to the extent that AA alleges it was acting under color of
 2 federal law and government authority, it arises out of the Fourth Amendment to the United
 3 States Constitution providing that the right of people to be secure in their persons shall not
 4 be violated by unreasonable seizures.

5 92. Defendant breached its duties to Plaintiffs and others similarly situated on
 6 December 29th and 30th, 2006, and its conduct was in reckless disregard of its duty owed to
 7 Plaintiffs and similarly situated passengers.

8 93. Defendant's conduct was the proximate cause of damage and losses to the
 9 Plaintiffs and other class members; plaintiffs individual damages include lost earnings
 10 proximately caused by Defendant AA's negligence and reckless conduct, pain and suffering
 11 from physical and emotional injury caused by Defendant AA's negligence.

12 94. Defendant is guilty of negligence and/or gross negligence.

13 Wherefore, Plaintiffs pray for judgement as hereinafter set forth.

14 **SECOND CAUSE OF ACTION, BREACH OF CONTRACT**

15 95. Plaintiffs repeat and re-allege paragraphs 1 through 94 as if fully stated
 16 herein.

17 96. Defendant has filed with the US Department of Transportation, published
 18 on its web site, and referenced on its tickets "conditions of carriage" and a "Customer
 19 Service Plan" which states in part *"Your ticket and the following Conditions of Carriage
 20 constitute the Contract between You, the Passenger, and American Airlines, Inc./American
 21 Eagle/American and apply to all transportation provided by American (including
 22 transportation on codeshare Partners) between points in the United States."* .

23 97. The contract between the Plaintiffs and other class members and
 24 Defendant AA includes the following relevant terms and each were violated by Defendant
 25 AA as indicated below:

26 a) *"When cancellations and major delays are experienced, you will be
 27 rerouted on our next flight with available seats."* Plaintiffs and many other class members
 28 could have been rerouted on other AA flights that were taking off from Austin and other

1 airports with diverted flights for DFW and other destinations or allowed to exit the aircraft
2 when the diverted airport was at or near their destination, but Defendant AA in breach of this
3 contract term failed and refused to do so on December 29th and 30th, 2006. AA had other
4 flights with available seats at Austin and the other 16 airports that it diverted over 100 planes
5 to on December 29th, 2006 with available seats that it could have rerouted Plaintiff and other
6 passengers to DFW and other destinations but instead confined Plaintiff and others on the
7 ground in aircraft for 3 to 10 hours.

8 b) *"In extreme circumstances, it is possible that a flight will cancel while on*
9 *the ground in the city to which it was diverted. When this happens you will be rerouted on*
10 *the next American Airlines or American Eagle flight with available seats, or in circumstances*
11 *on alternative means of transportation, If we are unable to reroute you, reasonable overnight*
12 *accommodations will be provided by American Airlines or American Eagle, subject to*
13 *availability."* Defendant AA failed and refused to provide for or reimburse Plaintiff and most
14 other class members for overnight accommodations at diverted locations on December 29th,
15 2006 and in Dallas on December 30th, 2006 in breach of this contract term, or provide
16 alternate transportation or reroute. The great majority of diverted flights from DFW on
17 December 29th, 2006 were defacto canceled when they did not fly to DFW and the flight
18 crews left the aircraft. The mislabeling of such flights as "continued" the next day was an
19 deceptive and unauthorized practice by Defendant AA to avoid its obligations under this and
20 other contract provisions.

21 c) *"American Airlines and American Eagle will provide amenities for delayed*
22 *passengers, necessary to maintain the safety and/or welfare of certain passengers such as*
23 *customers with disabilities, unaccompanied children, the elderly and others to whom such*
24 *amenities will be furnished consistent with special needs and/or circumstances."* Many class
25 members had special needs and circumstances including the Plaintiff and her family
26 members, but Defendant breached this provision of its contract by failing to provide such
27 "amenities" as potable water, adequate food, access to medications (Plaintiff had anti-seizure
28

1 medications in her baggage that she was deprived of for about 57 hours), baby formula,
2 diapers, breathable air during the on ground confinements of over 3 hours.

3 d) *"If a flight is oversold (more passengers hold confirmed reservations than*
4 *there are seats available), and you are denied boarding involuntarily at the airport, you will*
5 *be entitled to Denied Boarding Compensation from American Airlines..." (and if American*
6 *cannot arrange alternate transportation for you to arrive within 2 hours of your scheduled*
7 *arrival time, you will be offered a payment of double the value of your flight coupon up to*
8 *\$400.) Par. 5 of Contract of Carriage (COC).* Defendant AA breached this term of its contract
9 with Plaintiffs and many other class members when it denied her boarding involuntarily on
10 December 30th at the airport in DFW because the her flight to Mobile Alabama was oversold
11 and failed to pay her Denied Boarding Compensation (for Plaintiff \$400 per ticket times 4
12 tickets for herself and three family members traveling with her, or if the aircraft was an
13 American Eagle flight with under 60 seats a full refund of the ticket price up to \$100 per
14 ticket). Plaintiff had complied with the check in requirements as set forth in Par. 7 of the
15 COC, none of the five exceptions in Par. 5 of the COC is applicable and she was present at
16 least 15 minutes prior to the scheduled boarding time for her flight from DFW to Mobile
17 Alabama on December 30th, 2006.

18 98. Defendant's conduct on December 29th, 2006 and subsequent thereto
19 breached its Contract with Plaintiff and other class members and caused them damages and
20 entitles them to general damages as provided by law.

21 99. Intentionally omitted.

22 WHEREFORE, Plaintiffs pray for judgement as hereinafter set forth.

23 **THIRD CAUSE OF ACTION, CONVERSION**

24 100. Plaintiffs repeat and re-allege paragraphs 1 through 99 as if fully set forth
25 herein.

26 101. Defendant AA wrongfully exercised dominion over the baggage of
27 Plaintiffs and other class members when it refused to return their baggage to them that was
28

1 readily available to be returned to Plaintiffs and other class members on December 29th and
2 30th, 2006.

3 102. Plaintiffs and other class members were damaged thereby and some
4 were endangered by being denied access to necessary medications, including anti-seizure
5 medicine in Plaintiff's baggage that she was deprived of by AA for over 57 hours causing her
6 pain, emotional distress, and anxiety and related damages.

7 103. Defendant AA is guilty of the tort of conversion.

8 WHEREFORE, plaintiffs pray for judgement as hereinafter set forth.

9 **FOURTH CAUSE OF ACTION, CIVIL CONSPIRACY**

10 104. Plaintiffs repeat and re-allege the allegations in paragraphs 1 through 103
11 as if fully set forth herein.

12 105. Defendants Doe #1, Al Tinsley, AA manager at the Austin airport on
13 December 29th, 2006, Doe #2, Don Dillman, managing director of AA's operations center,
14 Doe #3, Bonnie Sutton, AA's general manager at the Little Rock, Arkansas airport on
15 December 29th, 2006 and Does #4 through #18, consisting of the operations or general
16 managers of AA on duty on December 29th and 30th, 2006, upon information and belief,
17 knowingly agreed to participate in committing torts against Plaintiffs and others similarly
18 situated, and knowingly or recklessly breached the standard of care owed to Plaintiffs and
19 others similarly situated, and knowingly undertook a course of conduct that threatened the
20 physical safety and emotional well being of Plaintiffs and others similarly situated by
21 knowingly confining Plaintiffs and others similarly situated for 3-10 hours in aircraft against
22 their will and without adequate necessities of potable water, toilet facilities, food, access to
23 medications, exercise to avoid blood clots from confinements over 4 hours, and/or
24 breathable air, for Defendant Does #1-#18 commercial convenience and pecuniary gain.

25 106. Unlawful overt acts done in furtherance of this conspiracy included:

26 a) by Defendant Doe #2 instructing and coordinating with Defendant Does #1,
27 and #3 through #18, operations managers at 17 or more airport locations where over 100
28

1 aircraft were diverted from DFW on December 29th, 2006, to involuntarily confine
2 passengers for 3 to 11 hours in AA aircraft on the ground;

3 b) by Defendant Does #1-#18 intentionally and repeatedly making
4 misrepresentations to the AA pilots of diverted aircraft over many hours including Plaintiff
5 and others similarly situated, knowing and intending that AA pilots would then pass on these
6 misrepresentations and false information to the Plaintiff and others similarly situated that i)
7 no gates or buses were available to permit passengers to safely exit the aircraft; ii) that
8 Plaintiff's and other diverted aircraft were cleared for takeoff or would be taking off shortly
9 for DFW; iii) that DFW airport was closed;

10 c) by Defendant Does #1 - #18 intentionally withholding and refusing to deliver
11 to Plaintiff's and others similarly situated available or reasonably available essential survival
12 supplies or services of potable water, working toilet facilities, food, and access to medications
13 or exercise after over 3 hours of confinement on the diverted airport tarmacs;

14 d) by Defendant Doe #1 Al Tinsley telling AA customer service agents under
15 his supervision to go home and close the customer service center in Austin, so that there
16 would be inadequate or no personnel to provide services to Plaintiff and others similarly
17 situated after they were finally allowed to deplane at the Austin airport after many hours of
18 confinement;

19 e) by Defendant Does #1-#18 intentionally and fraudulently miscoding diverted
20 flight delays of Plaintiff and others similarly situated as due to weather or other reasons not
21 within the control of AA, so as to wrongfully and in bad faith deny overnight lodging, meal
22 and other compensation due to Plaintiff and others similarly situated who were stranded
23 overnight on December 29th, 2006 under a Force Majeur clause in the Contract of Carriage
24 rather than give the true reason which was for the commercial convenience and pecuniary
25 gain to AA and its employees;

26 f) by Defendant Does #1- #18 wrongfully and intentionally refusing and
27 denying requests AA pilots of Plaintiff's aircraft and others similarly situated to come to open
28

1 gates to discharge passengers even after many hours of confinement and when they knew
2 passengers were suffering from severe physical and emotional distress.

3 107. Defendant Doe #2 Don Dillman has publicly admitted that he knowingly
4 sacrificed the diverted flights of Plaintiff and others similarly situated and was quoted in a
5 November 15th, 2007 New York Times article on the December 29th, 2006 incident that is
6 the subject of the Plaintiff's complaint saying, "We had an attitude that was pretty much a
7 brick wall. You don't want the diverted flights to pull your normal flights down."

8 108. The aforementioned conspirators, upon information and belief, all had
9 personal financial reasons for engaging in such aforementioned wrongful and unlawful
10 conduct in that their bonuses from AA are determined in part based on how little was paid
11 out for diversions and delays, and pilots and other flight crew members who continuously
12 provided the false information and misrepresentations to Plaintiff and others similarly receive
13 much higher flight pay when the aircraft doors are locked and closed and little to no pay
14 when aircraft doors are opened to allow passengers to exit the aircraft.

15 109. Plaintiff and others similarly situated suffered damages and losses as a
16 result of Defendant Does #1-#18 wrongful and unlawful conduct.

17 WHEREFORE, Plaintiffs pray for damages as follows:

18 **DAMAGES/RELIEF SOUGHT**

19 110. Plaintiffs repeat and re-allege paragraphs 1 through 109 as if fully stated
20 herein.

21 111. Plaintiff is a consumer and class representative of all others similarly
22 situated who suffered losses and were damaged by Defendant's misconduct on December
23 29th and 30th, 2006 in the aforementioned diversions from Dallas (DFW) airport and the
24 subsequent, delays, injuries, confinements, and indignities suffered as a result of Defendant's
25 conduct.

26 112. The Plaintiff seeks individual damages of \$1,000,000 plus an amount in
27 excess of \$5,000,000 for the proposed class for negligence, breach of contract, conversion
28

1 and civil conspiracy, for compensatory, special, actual, and consequential damages, plus
2 exemplary and punitive damages.

3 113. Punitive damages are warranted in this case as the acts and/or omissions
4 of the Defendants were intentional and the Defendants knew, or in light of the surrounding
5 circumstances ought to have known, that their conduct would naturally and probably result in
6 injury and yet the Defendants continued this course of conduct with malice or in reckless
7 disregard of the consequences from which malice may be inferred.

8 114. The Defendants, motivated by greed and a desire for profit, continued the
9 actions as set for above in reckless disregard of the consequences from which malice may be
10 inferred.

11 115. The Defendant continues the practices detailed above and therefore
12 punitive damages are necessary in order to deter like conduct in the future.

13 116. Plaintiff also seeks the opportunity to be heard as to being named
14 representative of a class of all passengers similarly situated and will seek an incentive amount
15 for such representational duties as the court may determine.

16 117. Wherefore, Plaintiff requests that this honorable Court appoint the
17 Plaintiff as class representative, certify this case a class action pursuant to the Federal Rules
18 of Civil Procedure, order the Defendant to preserve all records relating the incidents
19 complained of, and otherwise issue orders and relief as the court deems just and proper in the
20 circumstances.

21 118. Plaintiffs also request attorney fees, expenses, costs, disbursements, and
22 interest as provided by law.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

Dated: August 13, 2008

LAW OFFICES OF PAUL S. HUDSON PC
LAW OFFICES OF DAVID G. RAMOS

By: /s/
Paul S. Hudson
Attorneys for Plaintiff KATHLEEN HANNI
Individually and on behalf of all others
similarly situated